

AMENDED IN SENATE JUNE 20, 2016

AMENDED IN ASSEMBLY MARCH 16, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2258

Introduced by Assembly Member Eggman

February 18, 2016

An act to amend Section 1513 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2258, as amended, Eggman. Unclaimed property.

Existing law prescribes the circumstances under which property held or owing by a business association escheats to the state. Existing law specifies that any demand, savings, or matured time deposit, or account subject to a negotiable order of withdrawal, made with a banking organization escheats to the state if the owner, for more than three years, has not increased or decreased the amount of the deposit. Existing law specifies that any demand, savings, or matured time deposit, or matured investment certificate, or account subject to a negotiable order of withdrawal, or other interest in a financial organization, escheats to the state when the owner, for more than three years, has not increased or decreased the amount of the funds or deposit.

This bill would provide that, for purposes of determining whether the above-described property escheats to the state, specified transactions that are initiated ~~through an electronic fund transfer, as defined by a federal regulation,~~ *electronically* and are reflected in the books and records of a banking or financial organization would constitute an

increase or decrease in the amount of the funds or deposit held by the banking or financial organization.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1513 of the Code of Civil Procedure is
2 amended to read:

3 1513. (a) Subject to Sections 1510 and 1511, the following
4 property held or owing by a business association escheats to this
5 state:

6 (1) (A) Except as provided in paragraph (6), any demand,
7 savings, or matured time deposit, or account subject to a negotiable
8 order of withdrawal, made with a banking organization, together
9 with any interest or dividends thereon, excluding, from demand
10 deposits and accounts subject to a negotiable order of withdrawal
11 only, any reasonable service charges that may lawfully be withheld
12 and that do not, where made in this state, exceed those set forth in
13 schedules filed by the banking organization from time to time with
14 the Controller, if the owner, for more than three years, has not
15 done any of the following:

16 (i) Increased or decreased the amount of the deposit, cashed an
17 interest check, or presented the passbook or other similar evidence
18 of the deposit for the crediting of interest.

19 (ii) Corresponded electronically or in writing with the banking
20 organization concerning the deposit.

21 (iii) Otherwise indicated an interest in the deposit as evidenced
22 by a memorandum or other record on file with the banking
23 organization.

24 (B) A deposit or account shall not, however, escheat to the state
25 if, during the previous three years, the owner has owned another
26 deposit or account with the banking organization or the owner has
27 owned an individual retirement account or funds held by the
28 banking organization under a retirement plan for self-employed
29 individuals or a similar account or plan established pursuant to the
30 internal revenue laws of the United States or the laws of this state,
31 as described in paragraph (6), and, with respect to that deposit,
32 account, or plan, the owner has done any of the acts described in
33 clause (i), (ii), or (iii) of subparagraph (A), and the banking

1 organization has communicated electronically or in writing with
2 the owner, at the address to which communications regarding that
3 deposit, account, or plan are regularly sent, with regard to the
4 deposit or account that would otherwise escheat under
5 subparagraph (A). For purposes of this subparagraph,
6 “communications” includes account statements or statements
7 required under the internal revenue laws of the United States.

8 (C) No banking organization may discontinue any interest or
9 dividends on any savings deposit because of the inactivity
10 contemplated by this section.

11 (2) (A) Except as provided in paragraph (6), any demand,
12 savings, or matured time deposit, or matured investment certificate,
13 or account subject to a negotiable order of withdrawal, or other
14 interest in a financial organization or any deposit made therewith,
15 and any interest or dividends thereon, excluding, from demand
16 deposits and accounts subject to a negotiable order of withdrawal
17 only, any reasonable service charges that may lawfully be withheld
18 and that do not, where made in this state, exceed those set forth in
19 schedules filed by the financial organization from time to time
20 with the Controller, if the owner, for more than three years, has
21 not done any of the following:

22 (i) Increased or decreased the amount of the funds or deposit,
23 cashed an interest check, or presented an appropriate record for
24 the crediting of interest or dividends.

25 (ii) Corresponded electronically or in writing with the financial
26 organization concerning the funds or deposit.

27 (iii) Otherwise indicated an interest in the funds or deposit as
28 evidenced by a memorandum or other record on file with the
29 financial organization.

30 (B) A deposit or account shall not, however, escheat to the state
31 if, during the previous three years, the owner has owned another
32 deposit or account with the financial organization or the owner
33 has owned an individual retirement account or funds held by the
34 financial organization under a retirement plan for self-employed
35 individuals or a similar account or plan established pursuant to the
36 internal revenue laws of the United States or the laws of this state,
37 as described in paragraph (6), and, with respect to that deposit,
38 account, or plan, the owner has done any of the acts described in
39 clause (i), (ii), or (iii) of subparagraph (A), and the financial
40 organization has communicated electronically or in writing with

1 the owner, at the address to which communications regarding that
2 deposit, account, or plan are regularly sent, with regard to the
3 deposit or account that would otherwise escheat under
4 subparagraph (A). For purposes of this subparagraph,
5 “communications” includes account statements or statements
6 required under the internal revenue laws of the United States.

7 (C) No financial organization may discontinue any interest or
8 dividends on any funds paid toward purchase of shares or other
9 interest, or on any deposit, because of the inactivity contemplated
10 by this section.

11 (3) Any sum payable on a traveler’s check issued by a business
12 association that has been outstanding for more than 15 years from
13 the date of its issuance, if the owner, for more than 15 years, has
14 not corresponded in writing with the business association
15 concerning it, or otherwise indicated an interest as evidenced by
16 a memorandum or other record on file with the association.

17 (4) Any sum payable on any other written instrument on which
18 a banking or financial organization is directly liable, including, by
19 way of illustration but not of limitation, any draft, cashier’s check,
20 teller’s check, or certified check, that has been outstanding for
21 more than three years from the date it was payable, or from the
22 date of its issuance if payable on demand, if the owner, for more
23 than three years, has not corresponded electronically or in writing
24 with the banking or financial organization concerning it, or
25 otherwise indicated an interest as evidenced by a memorandum or
26 other record on file with the banking or financial organization.

27 (5) Any sum payable on a money order issued by a business
28 association, including a banking or financial organization, that has
29 been outstanding for more than seven years from the date it was
30 payable, or from the date of its issuance if payable on demand,
31 excluding any reasonable service charges that may lawfully be
32 withheld and that do not, when made in this state, exceed those
33 set forth in schedules filed by the business association from time
34 to time with the Controller, if the owner, for more than seven years,
35 has not corresponded electronically or in writing with the business
36 association, banking, or financial organization concerning it, or
37 otherwise indicated an interest as evidenced by a memorandum or
38 other record on file with the business association. For the purposes
39 of this subdivision, “reasonable service charge” means a service
40 charge that meets all of the following requirements:

1 (A) It is uniformly applied to all of the issuer's money orders.

2 (B) It is clearly disclosed to the purchaser at the time of purchase
3 and to the recipient of the money order.

4 (C) It does not begin to accrue until three years after the
5 purchase date, and it stops accruing after the value of the money
6 order escheats.

7 (D) It is permitted by contract between the issuer and the
8 purchaser.

9 (E) It does not exceed 25 cents (\$0.25) per month or the
10 aggregate amount of twenty-one dollars (\$21).

11 (6) (A) Any funds held by a business association in an
12 individual retirement account or under a retirement plan for
13 self-employed individuals or similar account or plan established
14 pursuant to the internal revenue laws of the United States or of
15 this state, if the owner, for more than three years after the funds
16 become payable or distributable, has not done any of the following:

17 (i) Increased or decreased the principal.

18 (ii) Accepted payment of principal or income.

19 (iii) Corresponded electronically or in writing concerning the
20 property or otherwise indicated an interest.

21 (B) Funds held by a business association in an individual
22 retirement account or under a retirement plan for self-employed
23 individuals or a similar account or plan created pursuant to the
24 internal revenue laws of the United States or the laws of this state
25 shall not escheat to the state if, during the previous three years,
26 the owner has owned another such account, plan, or any other
27 deposit or account with the business association and, with respect
28 to that deposit, account, or plan, the owner has done any of the
29 acts described in clause (i), (ii), or (iii) of subparagraph (A), and
30 the business association has communicated electronically or in
31 writing with the owner, at the address to which communications
32 regarding that deposit, account, or plan are regularly sent, with
33 regard to the account or plan that would otherwise escheat under
34 subparagraph (A). For purposes of this subparagraph,
35 "communications" includes account statements or statements
36 required under the internal revenue laws of the United States.

37 (C) These funds are not payable or distributable within the
38 meaning of this subdivision unless either of the following is true:

39 (i) Under the terms of the account or plan, distribution of all or
40 a part of the funds would then be mandatory.

(ii) For an account or plan not subject to mandatory distribution requirement under the internal revenue laws of the United States or the laws of this state, the owner has attained 70½ years of age.

(7) Any wages or salaries that have remained unclaimed by the owner for more than one year after the wages or salaries become payable.

(b) For purposes of this section, the following terms have the following meanings:

(1) “Increased or decreased the amount of the deposit” and “increased or decreased the amount of the funds or deposit” includes the following transactions that are initiated ~~through an electronic fund transfer, as defined in 12 C.F.R. 1005.3,~~ *electronically* and are reflected in the books and records of the banking or financial organization:

(A) A single or recurring debit transaction authorized by the owner.

(B) A single or recurring credit transaction authorized by the owner.

(C) Recurring transactions authorized by the owner that represent payroll deposits or deductions.

(D) Recurring credits authorized by the owner or a responsible party that represent the deposit of any federal benefits, including social security benefits, veterans’ benefits, and pension payments.

(2) “Service charges” means service charges imposed because of the inactivity contemplated by this section.